

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

TA OPERATING CORPORATION

d/b/a TRAVEL CENTERS OF AMERICA

VA0061972

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 62.1-44.15(8a) and (8d) between the State Water Control Board and TA Operating Corporation d/b/a Travel Centers of America for the purpose of resolving certain violations of environmental laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code@ means the Code of Virginia (1950), as amended.

2. ABoard@ means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Code ' ' 10.1-1184 and 62.1-44.7.
3. ADepartment@ or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code ' 10.1-1183.
4. ADirector@ means the Director of the Department of Environmental Quality.
5. "DMR" means discharge monitoring report.
6. AOrder@ means this document, also known as a Consent Special Order.
7. ATravel Centers of America@ means TA Operating Corporation d/b/a Travel Centers of America which owns the facility known as Travel Centers of America in Hanover County, Virginia, a corporation certified to do business in Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

SECTION C: Findings of Facts and Conclusions of Law:

1. Travel Centers of America owns and operates a truck maintenance, retail fueling and restaurant facility at the intersection of I-95 and Lewistown Road in Hanover County, Virginia.
2. Travel Centers of America reported 18 exceedances of permitted limits for total suspended solids, total phosphorus and ammonia on DMRs submitted between May and October 2001.
3. On November 20, 2001, the Department issued a Notice of Violation No. 01-11-PRO-003 to Travel Centers of America for permit limit exceedances.

4. Travel Centers of America stated, on December 19, 2001, that it had hired a consultant to conduct an evaluation and make recommendations.
5. In a letter dated March 25, 2002, Travel Centers of America reported that operating procedures were being changed in an effort to address the permit limit exceedances.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders Travel Centers of America, and Travel Centers of America agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Travel Centers of America, and Travel Centers of America voluntarily agrees, to pay a civil charge of \$4,500 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this order and shall note the Federal Identification Number for Travel Centers of America. Payment shall be by check, certified check, money order, or cashier's check payable to ATreasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Travel Centers of America, for good cause shown by Travel Centers of America, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to the enforcement of this Order, Travel Centers of America admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Travel Centers of America consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Travel Centers of America declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Travel Centers of America to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of

appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Travel Centers of America shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Travel Centers of America shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Travel Centers of America shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 5 days of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a

requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Travel Centers of America. Notwithstanding the foregoing, Travel Centers of America agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until after the penalty has been paid in accordance with the provisions of Section D, the requirements in Appendix A have been fully and timely met, and the Regional Director or Deputy Regional Director terminates the Order in his sole discretion upon 30 days written notice to Travel Centers of America. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Travel Centers of America from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, TA Operating Corporation d/b/a Travel Centers of America voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2002.

Robert G. Burnley, Director
Department of Environmental Quality

TA Operating Corporation d/b/a Travel Centers of America voluntarily agrees to the issuance of this Order.

Date: _____

By: _____

Peter P. Greene
Vice-President

State of Ohio

City/County of _____

The foregoing document was acknowledge before me this _____ day of _____, 2002,

by _____, who is the _____ of Travel

Centers of America on behalf of Travel Centers of America.

My commission expires:

Notary Public

APPENDIX A

Travel Centers of America shall:

1. Within sixty (60) days of the issuance of this Order, Submit to the Department a diagnostic evaluation (DE) of the treatment plant. The DE shall contain a corrective action plan (CAP) with an implementation schedule to bring the treatment plant back into compliance with the VPDES permit. The schedule, once approved by the Department, shall become an enforceable part of the Order.

Pursuant to this Order communications regarding this Order and its requirements shall be addressed as follows:

Frank Lupini
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060

Travel Centers of America shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion**.